

# SENATE BILL 812

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SB 221/09 – FIN

0lr1663

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By: **Senator Lenett**  
Introduced and read first time: February 10, 2010  
Assigned to: Finance

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Committee Report: Favorable with amendments  
Senate action: Adopted  
Read second time: March 26, 2010

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **End of Life Health Care Disclosure Act**

3 FOR the purpose of requiring certain health care facilities to provide certain  
4 information concerning the right to make certain decisions about health care  
5 ~~and the availability of hospice care~~, to request a copy of existing advance  
6 directives under certain circumstances, and to inform certain individuals or  
7 proxy decision makers about certain facility procedures; requiring a health care  
8 facility to disclose the facility's policy on honoring advance directive provisions  
9 in a certain manner; ~~requiring an admitting physician at a health care facility~~  
10 ~~to inform an individual or an individual's proxy decision maker of the facility's~~  
11 ~~policy on honoring advance directive provisions under certain circumstances;~~  
12 ~~requiring the State Advisory Council on Quality Care at the End of Life to~~  
13 ~~consult with certain groups before developing and making publicly available~~  
14 ~~certain resources~~; defining certain terms; providing for a delayed effective date  
15 ~~for certain provisions of this Act~~; and generally relating to the provision of  
16 information by health care facilities on an individual's admission to a facility.

17 BY renumbering  
18 Article – Health – General  
19 Section 5–615(c)  
20 to be Section 5–615(e)  
21 Annotated Code of Maryland  
22 (2009 Replacement Volume)

23 BY repealing and reenacting, with amendments,

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### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Article – Health – General  
 2 Section 5–615(a)  
 3 Annotated Code of Maryland  
 4 (2009 Replacement Volume)

5 BY repealing  
 6 Article – Health – General  
 7 Section 5–615(b)  
 8 Annotated Code of Maryland  
 9 (2009 Replacement Volume)

10 BY adding to  
 11 Article – Health – General  
 12 Section 5–615(b), (c), and (d)  
 13 Annotated Code of Maryland  
 14 (2009 Replacement Volume)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 16 MARYLAND, That Section(s) 5–615(c) of Article – Health – General of the Annotated  
 17 Code of Maryland be renumbered to be Section(s) 5–615(e).

18 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
 19 read as follows:

20 **Article – Health – General**

21 5–615.

22 (a) **(1)** In this section[, “health care facility” has the meaning stated in §  
 23 19–114 of this article] **THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

24 **(2) “HEALTH CARE FACILITY” HAS THE MEANING STATED IN §**  
 25 **19–114 OF THIS ARTICLE.**

26 **(3) “PROXY DECISION MAKER” MEANS A HEALTH CARE AGENT OR**  
 27 **SURROGATE DECISION MAKER AUTHORIZED TO MAKE HEALTH CARE DECISIONS**  
 28 **ON BEHALF OF AN INDIVIDUAL UNDER THIS SUBTITLE.**

29 [(b) Each health care facility shall provide each individual on admittance to  
 30 the facility information concerning the rights of the individual to make decisions  
 31 concerning health care, including the right to accept or refuse treatment, and the right  
 32 to make an advance directive, including a living will.]

33 **(B) IF AN INDIVIDUAL WHO IS CAPABLE OF MAKING AN INFORMED**  
 34 **DECISION IS ADMITTED TO A HEALTH CARE FACILITY, THE HEALTH CARE**  
 35 **FACILITY SHALL:**

1 (1) PROVIDE THE INDIVIDUAL WITH INFORMATION ON:

2 ~~(I) THE~~ THE RIGHT OF THE INDIVIDUAL TO MAKE  
3 DECISIONS CONCERNING HEALTH CARE, INCLUDING THE RIGHT TO ACCEPT OR  
4 REFUSE TREATMENT, AND A STATEMENT THAT THE INFORMATION PROVIDED IS  
5 REQUIRED BY LAW AND IS NOT INTENDED TO BE MEDICAL ADVICE; ~~AND~~

6 ~~(II) THE LOCAL HOSPICE PROGRAM, INCLUDING THE~~  
7 ~~TELEPHONE NUMBER OF THE PROGRAM;~~

8 (2) REQUEST FROM THE INDIVIDUAL A COPY OF ANY EXISTING  
9 ADVANCE DIRECTIVE MADE BY THE INDIVIDUAL;

10 (3) IF THE INDIVIDUAL DOES NOT HAVE AN ADVANCE DIRECTIVE,  
11 INFORM THE INDIVIDUAL OF THE RIGHT TO MAKE AN ADVANCE DIRECTIVE,  
12 INCLUDING A LIVING WILL; AND

13 (4) INFORM THE INDIVIDUAL OF THE HEALTH CARE FACILITY'S  
14 POLICIES AND PROCEDURES CONCERNING:

15 (I) IMPLEMENTATION OF AN ADVANCE DIRECTIVE; AND

16 (II) THE USE OF CARDIOPULMONARY RESUSCITATION AND  
17 "DO NOT RESUSCITATE" ORDERS.

18 (C) IF AN INDIVIDUAL WHO IS INCAPABLE OF MAKING AN INFORMED  
19 DECISION IS ADMITTED TO A HEALTH CARE FACILITY, THE FACILITY SHALL:

20 (1) PROVIDE THE PROXY DECISION MAKER WITH INFORMATION  
21 ON:

22 ~~(I) THE~~ THE RIGHT OF THE PROXY DECISION MAKER TO  
23 MAKE DECISIONS CONCERNING HEALTH CARE FOR THE INDIVIDUAL, INCLUDING  
24 THE RIGHT TO ACCEPT OR REFUSE TREATMENT, AND A STATEMENT THAT THE  
25 INFORMATION PROVIDED IS REQUIRED BY LAW AND IS NOT INTENDED TO BE  
26 MEDICAL ADVICE; ~~AND~~

27 ~~(II) THE LOCAL HOSPICE PROGRAM, INCLUDING THE~~  
28 ~~TELEPHONE NUMBER OF THE PROGRAM;~~

29 (2) REQUEST FROM THE PROXY DECISION MAKER A COPY OF ANY  
30 EXISTING ADVANCE DIRECTIVE MADE BY THE INDIVIDUAL OR ON BEHALF OF  
31 THE INDIVIDUAL; AND

1           **(3)    INFORM THE PROXY DECISION MAKER OF THE HEALTH CARE**  
 2 **FACILITY’S POLICIES AND PROCEDURES CONCERNING:**

3                   **(I)    IMPLEMENTATION OF AN ADVANCE DIRECTIVE; AND**

4                   **(II)   THE USE OF CARDIOPULMONARY RESUSCITATION AND**  
 5 **“DO NOT RESUSCITATE” ORDERS.**

6           **(D)    ~~(1)~~   A HEALTH CARE FACILITY SHALL DISCLOSE ITS POLICY ON**  
 7 **HONORING ADVANCE DIRECTIVE PROVISIONS ON THE FACILITY’S WEBSITE AND**  
 8 **THE MARYLAND HEALTH CARE COMMISSION’S WEBSITE.**

9                   **~~(2)    FOR A PLANNED ADMISSION TO A HEALTH CARE FACILITY,~~**  
 10 **~~BEFORE AN INDIVIDUAL IS ADMITTED, THE ADMITTING PHYSICIAN SHALL~~**  
 11 **~~INFORM THE INDIVIDUAL OR THE INDIVIDUAL’S PROXY DECISION MAKER OF~~**  
 12 **~~THE FACILITY’S POLICY ON HONORING ADVANCE DIRECTIVE PROVISIONS.~~**

13           ~~SECTION 3. AND BE IT FURTHER ENACTED, That the State Advisory~~  
 14 ~~Council on Quality Care at the End of Life, after consultation with the Health~~  
 15 ~~Facilities Association of Maryland, the Hospice and Palliative Care Network of~~  
 16 ~~Maryland, the Maryland Hospital Association, Mid-Atlantic LifeSpan, and other~~  
 17 ~~appropriate groups, shall review the information sheet under § 5-615(e) of the Health~~  
 18 ~~—General Article, as enacted by Section 1 of this Act, to determine whether changes~~  
 19 ~~should be recommended to the Department of Health and Mental Hygiene. In~~  
 20 ~~conducting this review, the State Advisory Council shall also consider the development~~  
 21 ~~of model language, checklists, points to consider, references to published materials, or~~  
 22 ~~other information that the State Advisory Council considers helpful to facilitate~~  
 23 ~~patient centered decision making about life sustaining procedures. To the extent~~  
 24 ~~feasible, these resources shall take account of relevant differences among types of~~  
 25 ~~health care facilities or time constraints on decision making.~~

26           ~~SECTION 4. 3. AND BE IT FURTHER ENACTED, That Sections 1 and 2 of~~  
 27 ~~this Act shall take effect January 1, 2011.~~

28           ~~SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in~~  
 29 ~~Section 4 of this Act, this Act shall take effect June 1, 2010.~~